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United States Senate

WASHINGTON, DC 20510-3405

April 10, 2006

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Mr. Martin Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street N.W.
Washington, D.C. 20429

Dear Chairman Gruenberg:

I am writing to urge the Federal Deposit Insurance Corporation (FDIC) to reject Wal-Mart's application for federal deposit insurance for an industrial loan company (ILC) that Wal-Mart has chartered under Utah's permissive state banking law. Allowing Wal-Mart to own and operate a federally-insured bank violates one of the most important tenets in federal banking law: banks and commercial businesses should be kept separate.

It has been longstanding federal policy generally to prohibit the mixing of banking and commerce - the unitary thrift holding company exception to that policy was repealed by the Gramm-Leach-Bliley Act in 1999 for just that reason. Keeping banking and the workings of the nation's payment and credit system separate from the nation's industrial and retail sectors helps to ensure the stability and integrity of the banking system and reduces the chance of a major banking failure and taxpayer bailout.

Federal law continues to contain an exception to the general pattern of banking regulation for ILCs, which were originally conceived of as small loan companies catering to less affluent individuals. Unfortunately, a number of large financial services and commercial firms are using the ILC exception as a loophole to obtain approval for large-scale banking activities that were never intended by Congress to exist - if at all - in the manner permitted for ILCs. The owners of ILCs, even if they could own banks, would be subject to the Bank Holding Company Act were it not for the ILC loophole. Equally, if not more importantly, non-financial services firms such as Wal-Mart would never be permitted to engage in banking activities under the Bank Holding Company Act.

If Wal-Mart is granted deposit insurance, one of the nation's largest and most powerful corporations would be permitted to enter the banking business through this unintended back door. A downturn, let alone a failure, in Wal-Mart's colossal retail business could create a major disruption in the nation's banking system. Moreover, Wal-Mart's market power is almost incapable of challenge. A Wal-Mart bank could potentially make decisions to grant or withhold credit that could have an adverse impact on many local economies, especially in the rural areas of our nation.

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In conclusion, I want to join other policymakers, consumer and workers' interest groups, and federal bank regulators who have raised a concern about the ILC loophole. Ultimately, this loophole should be closed. But the first step is for the FDIC to say a resounding "no" to Wal-Mart and reject the application of Wal-Mart's ILC for federal deposit insurance.

Thank you in advance for your consideration. I look forward to hearing from you soon on this critically important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Byron", written over the word "Sincerely,".

Byron L. Dorgan
U.S. Senator

BLD:ach